

# Notice of Allowability

Application No.

09/538,677

Examiner

Beth Van Doren

Applicant(s)

MEYERS, STEPHAN

Art Unit

3623

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communications received 09/06/05.
2. ☒ The allowed claim(s) is/are 1-5,7,9,10 and 12.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
**TARIQ R. HAFIZ**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

### DETAILED ACTION

1. The following statement of reasons for allowance is in response to communications received on 09/06/2005. This response includes an examiner's amendment and a statement of reason for allowance. Claims 1-5, 7, 9-10, and 12 are pending in this application and are allowed.

#### *Examiner's Amendment*

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for the examiner's amendment to claim 1 was given in a telephone interview with Mr. Alfred Froebrich on November 11, 2005. The application has been amended as follows:

#### **In the claims:**

1. A portable media player and rating apparatus, comprising:  
a user-manipulable control dedicated for generating a signal indicating a user-supplied rating of a currently played media content in response to a user-supplied rating, the user-supplied rating corresponding to one of a plurality of predefined categories of preferences; and  
the portable media player being a handheld device and having a memory device and a processor arranged in the portable media player,  
said memory device arranged for storing media contents and a ratings list comprising a list of user supplied ratings associated with the stored media contents, and

said processor being operatively connected to said user-manipulable control and to said memory device for selectively retrieving the stored media contents from said memory device and playing the stored media contents at the portable media player, for receiving the signal from said user-manipulable control, and for associating the user-supplied rating indicated by the signal with the currently played media content, wherein said processor is further operable for ranking the media content in response to the user-supplied ratings in the ratings list and selectively retrieving and playing media content in said memory based on the user-supplied ratings in the ratings list, and said user-manipulable control includes input controls for indicating a positive rating and a negative rating, said processor being operative to move the currently playing content toward ~~one of the top and the bottom~~ of the ratings list by a first predetermined amount of slots if the positive rating is indicated and move the currently playing content toward ~~the other one of the top and the bottom~~ of the ratings list by a second predetermined amount of slots if the negative rating is indicated, and wherein said processor is further operable for continuously updating a user-supplied rating of the media content based on signals input by the user during subsequent playing of the media content.

***Reasons for Allowance***

3. Claims 1-5, 7, 9-10, and 12 are allowed.
4. The following is an examiner's statement of reasons for allowance: The following is an examiner's statement of reasons for allowance: None of the prior art of record, taken individually or in any combination, teach, inter alia, teach a handheld portable media player with a processor within the player and with a user-manipulable control operatively connected to the processor, wherein the user-manipulable control is used to input a positive or negative rating for currently playing media content, the currently playing media content moved by the processor

Art Unit: 3623

towards the top of the ratings list by a first predetermined amount of slots if the positive rating is indicated or towards the bottom of the ratings list by a second predetermined amount of slots if the negative rating is indicated.

The prior art references most closely resembling the Applicant's claimed invention are *Rio Portable MP3 Player bundled with MusicMatch Jukebox* (disclosed by the references "MusicMatch and Xing Technology introduce MusicMatch Jukebox" and "MusicMatch delivers breakthrough music personalization service in new MusicMatch Jukebox" from [www.musicmatch.com](http://www.musicmatch.com) and screenshots of [www.musicmatch.com](http://www.musicmatch.com) [www.diamonmmm.com](http://www.diamonmmm.com) of *Rio PMP 300* retrieved from archive.org), Abecassis (U.S. 6,192,340), Thomson (WO 99/35830), Rosin et al. (U.S. 6,260,192).

First, The *Rio Portable MP3 Player bundled with MusicMatch Jukebox* system discloses a portable media player comprising memory and a processor and a host computer with a processor on which a user manipulates controls to rank and rate media, where the player and host computer are operatively connected. The user generates a signal via a PC and/or playing device, the signal indicating a rating of the currently played media content. The user's rating is a preference rating which helps build the user's profile. The rating is also used to sort music. The processor is then used in conjunction with the memory and the controls to selectively download playlists of media contents along with ratings. Further, after listing to the media content, a user may go back to the processor and use the dynamic system to update the media content by changing the ratings. However, *Rio Portable MP3 Player bundled with MusicMatch Jukebox* does not expressly teach a handheld portable media player with a processor within the player and with a user-manipuable control operatively connected to the processor, wherein the user-

Art Unit: 3623

manipuable control is used to input ratings for currently playing media content, the currently playing media content moved by the processor.

Second, Thomson discloses a system for rating currently playing media content. The media player receives the user-supplied ratings via a user-manipulable control and a processor. The ratings are associated with currently played media content and stored in the memory of the system. The memory maintains user-supplied rating information, this rating information supplied in predefined categories of preferences, such as “I Loved” v. “I Hated”, ratings 1-5, and letters “A”-“D”. These ratings are dynamic and updateable because the user can continue to supply ratings over time, thus changing the rating profile of the user. The processor and memory work together to selectively determine media for the user by using the rating information in memory to rank other media content and then play the selected media content. However, Thomson does not teach or suggest a handheld portable media player with a processor within the player and with a user-manipuable control operatively connected to the processor, wherein the user-manipuable control is used to input a positive or negative rating where the media content is moved towards the top of the ratings list by a first predetermined amount of slots if the positive rating is indicated or towards the bottom of the ratings list by a second predetermined amount of slots if the negative rating is indicated.

Third, Abecassis discloses playing real-time information responsive to the user's preferences concerning the information. The user has a multimedia portable player and audio (i.e. music, audible content, etc.) is played on the player based on preferences set by the user, such as information and schedule preferences. The player is made up of a communications module, a processor, and memory, where the communications module has the ability to support

Art Unit: 3623

cellular phone communications. The player also has user-manipuable buttons used to support the functionality of the player. Using the user's preferences, the player will download media content to build an audio library and playlist for the user. The player also supports radio on demand with a high level of interactivity that allows user to skip past a currently playing audio, replay an audio, obtain additional information about an audio, etc. However, Abecassis does not expressly disclose inputting a positive or negative rating for currently playing media content, the currently playing media content moved by the processor towards the top of the ratings list by a first predetermined amount of slots if the positive rating is indicated or towards the bottom of the ratings list by a second predetermined amount of slots if the negative rating is indicated.

Finally, Rosin et al. discloses a media player with an on-demand system for displaying media content. The media player allows a user to choose media via controls, download the media, and after some time the player selectively suggests media to the user. Rosin et al. does not teach or suggest a handheld portable media player with a user-manipuable control operatively connected to the processor within the player, wherein the user-manipuable control is used to input a positive or negative rating for currently playing media content.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Erdelyi (U.S. 6,631,522) discloses a player with a play table and a play current table, wherein player ratings are stored and used to determine which video clips are retrieved and displayed.

Art Unit: 3623

Eyal et al. (U.S. 2002/0116476) discloses a handheld device that plays back media content.

Katz et al. (U.S. 6,356,971) discloses managing media content, such as audio tracks or video, and creating playlists.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737.

The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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November 14, 2005

  
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